

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PRESTIGE DEFAULT SERVICES, LLC, §
in its capacity as Substitute Trustee for U.S. Bank Trust §
National Association as trustee of Cabana Series III §
Trust, §
§
Interpleader-Plaintiff, §
§
v. §
§
GEORGE KENNETH IVORY, *a/k/a* Kenneth §
Ivory, OFFICE OF THE ATTORNEY §
GENERAL OF TEXAS, DEPARTMENT OF §
TREASURY INTERNAL REVENUE §
SERVICE, EDWARD BUTLER & ROBIN §
BUTLER, *solely in their capacity as co-managing* §
conservators of K.S. Ivory, a minor, §
§
Defendants/ §
Claimants-in-interpleader. §

1:23-CV-1097-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Mark Lane concerning Claimant Department of Treasury Internal Revenue Service's ("IRS") Motion for Summary Judgment, (Dkt. 13). (R. & R., Dkt. 29). Claimant Office of the Attorney General of Texas ("OAG") timely filed objections to the report and recommendation. (Objs., Dkt. 30).

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because OAG timely objected to a portion the report and recommendation, the Court reviews the report and recommendation *de novo*. Having done so and for the reasons given in the report and recommendation, the Court overrules OAG's objections. As no party objected to Judge Lane's determination that Plaintiff Prestige Default Services, LLC is not entitled to attorney's

fees, (R. & R., Dkt. 29, at 3–4), the Court reviews that portion of the report and recommendation for clear error. *See* 28 U.S.C. § 636(b)(1)(C). Having done so, the Court finds no clear error and adopts the report and recommendation in full as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Mark Lane, (Dkt. 29), is **ADOPTED**.

IT IS FURTHER ORDERED that IRS's motion for summary judgment, (Dkt. 13), is **GRANTED**.

Accordingly, the Court finds that the United States' claim to excess proceeds from the sale of property located at 15200 Faubion Trail, Leander, Texas 78641 is superior to all other claimants in this case. Those excess sale proceeds are directed to be paid in their entirety to the United States for application against Defendant Kenneth Ivory's federal tax liabilities.

As disbursement of funds from the Court requires the payee's name and address, **IT IS ORDERED** that the IRS shall file a notice on or before **August 21, 2024**, including the name and address of the appropriate account or recipient for disbursement.

The Court will enter final judgment and disbursement of funds by separate order following submission of the notice by the IRS.

SIGNED on August 14, 2024.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE